

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA

§

§

v.

§

1:21-cr-00048-LY-9

§

STEPHANIE SHIRES (9)

§

Order on Petition for Action on Conditions of Pretrial Release

In accordance with the Federal Rules of Criminal Procedure and 18 U.S.C. § 3148, on May 13, 2022, a hearing was held before the undersigned Magistrate Judge on the U.S. Pretrial Services' Petition for Action on Conditions of Pretrial Release (Dkt. 1059).

On March 2, 2022, Defendant was indicted on one count of Conspiracy to Possess with Intent to Distribute 50 Grams or More of a Mixture and Substance Containing a Detectable Amount of Methamphetamine, in violation of 21 U.S.C. § 846. Dkt. 3. Defendant was arrested on April 15, 2021, and released on conditions on January 12, 2022. Dkt. 784. She pled guilty to the charge against her on April 27, 2022. Dkt. 1027. Sentencing is set for July 22, 2022. Dkt. 1028.

In the Petition, Pretrial Services alleges that Defendant violated condition (7)(I) of her release: "The defendant must not use alcohol at all." The Petition states that, on May 10, 2022, Defendant reported to Pretrial Services as scheduled and submitted two breath alcohol tests, which yielded blood alcohol levels of .028% and .023%, approximately one-third of the .08% concentration defined as legal intoxication in Texas. TEX. PENAL CODE § 49.01(2)(B). Defendant explained at the hearing that she had consumed a small amount of vodka on the morning of May 10, 2022 by mistake; her mother and custodian confirmed Defendant's explanation.

The Court has carefully considered the original Pretrial Services Report, the docket, the Petition, Defendant's statements during the hearing, her overall compliance with her conditions of release, and the arguments of counsel. Pursuant to § 3148(b)(1)(B), the Court finds by clear and convincing evidence that Defendant violated condition (7)(l) of her release by consuming alcohol. Nonetheless, the Court finds that, based on the factors set forth in 18 U.S.C. § 3142(g), there are conditions of release that will assure that Defendant is not likely to flee or pose a danger to the safety of any other person or the community if she remains on release, and that she is likely to abide by such conditions. *See* 18 U.S.C. §§ 3142 and 3148.

It is therefore **ORDERED** that the Petition for Action on Conditions of Pretrial Release (Dkt. 1059) is **DENIED**. Defendant remains on pretrial release subject to all conditions in the Court's Order Setting Conditions of Release (Dkt. 784). Defendant's custodian is encouraged to ensure that there is no alcohol in the home she and Defendant share.

SIGNED on May 13, 2022.



SUSAN HIGHTOWER
UNITED STATES MAGISTRATE JUDGE